

## **Title 5: ADMINISTRATIVE PROCEDURES AND SERVICES**

### **Chapter 316-A: VICTIMS' COMPENSATION FUND**

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**Maine Revised Statutes**  
**Title 5: ADMINISTRATIVE PROCEDURES AND SERVICES**  
**Chapter 316-A: VICTIMS' COMPENSATION FUND**

**§3360. DEFINITIONS**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1991, c. 806, §3 (NEW).]

**1. Board.** "Board" means the Victims' Compensation Board as established in section 12004-J, subsection 11.

[ 1991, c. 806, §3 (NEW) .]

**2. Bodily injury.**

[ 1999, c. 360, §9 (AFF); 1999, c. 360, §1 (RP) .]

**2-A. Catastrophic injury.** "Catastrophic injury" means an extremely serious injury that may result in permanent disability or a long-lasting medical condition.

[ 2009, c. 79, §1 (NEW) .]

**3. Crime.** "Crime" means one of the following:

A. Offenses against the person as described in Title 17-A, chapter 9; [1991, c. 806, §3 (NEW) .]

B. Sexual assaults as described in Title 17-A, chapter 11; [1991, c. 806, §3 (NEW) .]

C. Kidnapping and criminal restraint as described in Title 17-A, chapter 13; [1991, c. 806, §3 (NEW) .]

D. Robbery as described in Title 17-A, chapter 27; [1997, c. 378, §1 (AMD) .]

E. Operating under the influence of intoxicating liquor or drugs or with an excessive alcohol level, as described in Title 29-A, section 2411; [2009, c. 447, §1 (AMD) .]

F. An act of terrorism, as defined in United States Code, Title 18, Section 2331, committed outside of the United States against a resident of this State; [2005, c. 22, §1 (AMD) .]

G. Leaving the scene of a motor vehicle accident involving personal injury or death, in violation of Title 29-A, section 2252; [2013, c. 537, §1 (AMD) .]

H. Sexual exploitation of a minor as described in Title 17-A, chapter 12; or [2013, c. 537, §2 (AMD) .]

I. [2009, c. 336, §3 (RP) .]

J. Aggravated sex trafficking or sex trafficking as described in Title 17-A, sections 852 and 853, respectively. [2013, c. 537, §3 (NEW) .]

[ 2013, c. 537, §§1-3 (AMD) .]

**4. Eligible expenses and losses.** "Eligible expenses and losses" means expenses and losses resulting from a personal injury sustained by an individual as a direct result of a crime specified in subsection 3 and may include medical and medically related expenses, psychological or mental health counseling expenses, lost wages, funeral, burial and other homicide-related expenses and travel expenses and loss of income of a

claimant or family member for providing or obtaining care for the personal injury of a minor or incapacitated victim. "Eligible expenses and losses" may include costs of eyeglasses, hearing aids, dentures or other prosthetic devices taken, lost, destroyed or damaged as a result of the crime, costs to repair, replace or install locks or security devices, costs of crime scene cleanup and security deposits. Expenses and losses claimed under this subsection must be expenses or losses actually and reasonably incurred.

[ 2009, c. 79, §2 (AMD) .]

**5. Family or household member.** "Family or household member" means: the parent, stepparent, sibling, grandparent, spouse, child or stepchild of a victim or a person who bears an equally significant relationship to the victim; or a person who at the time of discovery of the crime was living in the household of the victim or who previously had lived in the household of the victim for a period of not less than 2 years.

[ 2003, c. 243, §3 (AMD) .]

**6. Personal injury.** "Personal injury" means bodily injury as defined in Title 17-A, section 2, subsection 5 or psychological injury incurred by a victim who has sustained the threat of bodily injury.

[ 1999, c. 360, §3 (NEW); 1999, c. 360, §9 (AFF) .]

#### SECTION HISTORY

1991, c. 806, §3 (NEW). 1995, c. 65, §A8 (AMD). 1995, c. 65, §§A153,C15 (AFF). 1997, c. 378, §§1-4 (AMD). 1999, c. 360, §§1-3 (AMD). 1999, c. 360, §9 (AFF). 2003, c. 243, §§1-3 (AMD). 2005, c. 22, §§1-3 (AMD). 2007, c. 684, Pt. E, §§1-3 (AMD). 2007, c. 684, Pt. H, §1 (AFF). 2009, c. 79, §§1, 2 (AMD). 2009, c. 336, §§1-3 (AMD). 2009, c. 447, §1 (AMD). 2013, c. 537, §§1-3 (AMD).

## §3360-A. VICTIMS' COMPENSATION BOARD ESTABLISHED; COMPENSATION

**1. Establishment and membership.** There is established within the Department of the Attorney General the Victims' Compensation Board. The board consists of 3 members appointed by the Attorney General. One member must be a physician licensed to practice medicine in the State; one member must be an attorney licensed to practice law in the State; and one member must be experienced in working with victims of crime.

[ 1991, c. 806, §3 (NEW) .]

**2. Terms of appointment.** The term of each member is 3 years. The Attorney General shall make initial appointments for the following terms: one member for an initial term of 3 years, one member for an initial term of 2 years and one member for an initial term of one year. When a vacancy occurs prior to the expiration of a term, the appointment to fill that vacancy is for the balance of the unexpired term.

[ 1991, c. 806, §3 (NEW) .]

**3. Chair.** Annually, the members shall elect a chair from among the members.

[ 1991, c. 806, §3 (NEW) .]

**4. Compensation.** Members of the board are entitled to the legislative per diem plus compensation for actual and necessary expenses.

[ 1991, c. 806, §3 (NEW) .]

**5. Meetings.** The board may not meet more than once a month.

[ 1991, c. 806, §3 (NEW) .]

**6. Quorum.** Two members of the board constitute a quorum.

[ 1991, c. 806, §3 (NEW) .]

**7. Rules.** The board may adopt rules pursuant to the Maine Administrative Procedure Act to carry out the purposes of this chapter.

[ 1991, c. 806, §3 (NEW) .]

#### SECTION HISTORY

1991, c. 806, §3 (NEW).

### §3360-B. AWARD OF COMPENSATION; ELIGIBILITY

**1. Eligibility of victims.** The board may award compensation to any individual who:

A. Suffers personal injury as a direct result of a crime specified in section 3360, committed within the jurisdiction of the State; [1999, c. 360, §4 (AMD); 1999, c. 360, §9 (AFF).]

B. Has been sexually assaulted within this State in violation of Title 17-A, chapter 11 without regard to whether bodily injury or the threat of bodily injury occurred; [1999, c. 360, §4 (AMD); 1999, c. 360, §9 (AFF).]

C. Would otherwise be eligible for compensation, even though:

(1) The criminal conduct occurred in this State but within the exclusive jurisdiction of the United States;

(2) The personal injury resulted from conduct that violates a criminal law of the United States; or

(3) The crime occurred in another state, but only if the person is a resident of this State and the other state does not have a victim compensation program for which residents of this State are eligible, and the person would have been eligible under this chapter if the conduct had occurred in this State; or [1999, c. 360, §4 (AMD); 1999, c. 360, §9 (AFF).]

D. Is a resident of this State and suffers personal injury as a direct result of a crime specified in section 3360, subsection 3, paragraph F committed outside of the United States. [1999, c. 360, §4 (AMD); 1999, c. 360, §9 (AFF).]

[ 1999, c. 360, §4 (AMD); 1999, c. 360, §9 (AFF) .]

**2. Eligibility of financial dependents.** The board may award compensation for the benefit of a surviving family or household member for lost wages of a person who dies as a direct result of a crime if the family or household member was financially dependent on the deceased person or the deceased person had contributed substantially and regularly to the support of the surviving family or household member.

[ 1997, c. 378, §5 (NEW) .]

**3. Eligibility for payment of mental health treatment for family members.** The board may award compensation for the benefit of a surviving family or household member of a person who dies or suffers catastrophic injury as a direct result of a crime, a family or household member who witnessed a crime or a family or household member of a sexual assault victim for unreimbursed mental health treatment expenses directly related to the crime.

[ 2009, c. 79, §3 (AMD) .]

#### SECTION HISTORY

1991, c. 806, §3 (NEW). 1997, c. 378, §5 (AMD). 1999, c. 360, §4 (AMD). 1999, c. 360, §9 (AFF). 2009, c. 79, §3 (AMD).

### §3360-C. REQUIREMENTS AND EXCLUSIONS

**1. Compensation.** Compensation may not be paid for any crime unless:

A. The crime was reported to a law enforcement officer within 5 days of the occurrence or discovery of the crime or of the resultant injury; and [1991, c. 806, §3 (NEW) .]

B. The claim was filed with the board within 3 years of the occurrence of the injury or compensable loss, or within 60 days of the discovery of injury or compensable loss, whichever is later. [2003, c. 243, §4 (AMD) .]

[ 2003, c. 243, §4 (AMD) .]

**2. Cooperation.** Compensation may not be paid:

A. To any claimant who does not fully cooperate with the board or with the reasonable requests of law enforcement officers or prosecution authorities; or [1997, c. 378, §6 (AMD) .]

B. To or on behalf of any person who violated a criminal law that caused or contributed to the injury or death for which compensation is sought. [1991, c. 806, §3 (NEW) .]

[ 1997, c. 378, §6 (AMD) .]

**3. Exception.** The board may waive the time requirements of subsection 1 for good cause shown and shall waive the time requirements on behalf of a child or when the claimant is a child and the crime and the claim have been properly reported to law enforcement officers and the board by an adult who becomes aware of the crime and of the compensable injury.

[ 1991, c. 806, §3 (NEW) .]

#### SECTION HISTORY

1991, c. 806, §3 (NEW). 1997, c. 378, §6 (AMD). 2003, c. 243, §4 (AMD).

### §3360-D. CLAIMS

**1. Submission of claims.** Claims are submitted to the board as follows.

A. Claims must be in writing. [1999, c. 360, §5 (AMD); 1999, c. 360, §9 (AFF) .]

B. Claims must specify the date, the nature and circumstances of the crime and the law enforcement agency to which the crime was reported. [1991, c. 806, §3 (NEW) .]

C. Claims must include documentation of all eligible expenses and losses for which the claimant seeks compensation, including but not limited to medical reports, records and bills, funeral bills and employment records when lost wages are sought. [1991, c. 806, §3 (NEW) .]

D. Claims must include records related to insurance, workers' compensation, federal and state entitlement and assistance programs. [1991, c. 806, §3 (NEW).]

[ 1999, c. 360, §5 (AMD); 1999, c. 360, §9 (AFF) .]

**2. Release of records.** A signed application for benefits under this chapter is effective under state law to authorize the release of health care, mental health, employment and wage information pertinent to the claim. Additionally, the claimant shall provide the board with other information or the release of such other information as the board determines is reasonably necessary to decide the claim.

Upon request of the board pursuant to the claimant's application for compensation, health care providers and health plans, insurers or other persons who pay or discharge the costs of health care must submit directly to the board any information that is required to support a claimant's application or that is necessary to process a claim for payment.

[ 2003, c. 243, §5 (AMD) .]

**3. Forms.** The board may provide forms for the submission of claims and claims information.

[ 1997, c. 378, §7 (AMD) .]

**4. Confidentiality.** All records and information obtained by or in the possession of the Department of the Attorney General concerning an application for or an award of compensation under this chapter are confidential and may not be disclosed. However, the Attorney General may provide access to those records and information to the board for use in the board's official duties; those records and information remain confidential in the possession of the board. The records or information may, at the sole discretion of the Attorney General or designee of the Attorney General, be disclosed to:

A. Law enforcement officers to assist them with the discharge of their official duties; [1997, c. 378, §8 (NEW).]

B. The courts and the Department of Corrections to provide them with information to assess, collect and disburse restitution; [1997, c. 378, §8 (NEW).]

C. A claimant who has requested a hearing before the board or who has appealed a final decision of the board; and [1997, c. 378, §8 (NEW).]

D. Other persons to carry out the purposes of this chapter. [1997, c. 378, §8 (NEW).]

[ 1997, c. 378, §8 (NEW) .]

#### SECTION HISTORY

1991, c. 806, §3 (NEW). 1997, c. 378, §§7,8 (AMD). 1999, c. 360, §§5,6 (AMD). 1999, c. 360, §9 (AFF). 2003, c. 243, §5 (AMD).

### §3360-E. PAYMENT OF AWARDS; LIMITS

The board may award compensation to a claimant of up to \$15,000 for actual and unreimbursed losses and eligible expenses of any person who is sexually assaulted or who suffers personal injury or death as the result of a crime specified in section 3360, subsection 3. [1999, c. 731, Pt. QQQ, §1 (AMD).]

An award of compensation for the benefit of a family or household member is derivative of the claim of the victim. The total compensation paid for all claims arising from the crime against the victim may not exceed \$15,000. [1999, c. 731, Pt. QQQ, §2 (AMD).]

Within the limits specified in this section, when a person dies as the direct result of a specified crime, any individual who pays or who is legally responsible for medical, medically related, funeral or burial expenses may seek compensation for those unreimbursed expenses incurred by the individual. A provider of medical or funeral services may not seek reimbursement directly. [1997, c. 378, §9 (AMD).]

The board, in its sole discretion, may disburse funds awarded directly to the claimant or to the individuals or entities who provided the services for which compensation was awarded. In the case of more than one family or household member, the board may apportion the total compensation as the board determines. [1997, c. 378, §9 (AMD).]

#### SECTION HISTORY

1991, c. 806, §3 (NEW). 1995, c. 665, §JJ1 (AMD). 1995, c. 665, §JJ2 (AFF). 1997, c. 378, §9 (AMD). 1999, c. 360, §7 (AMD). 1999, c. 360, §9 (AFF). 1999, c. 731, §§QQQ1,2 (AMD).

### §3360-F. DETERMINATION OF AWARD

**1. Hearings.** The board may hold a hearing on any claim and the board shall hold a hearing if requested by the claimant. The claimant may address the board at a hearing on the claim and the board may take testimony under oath.

[ 1991, c. 806, §3 (NEW) .]

**2. Information.** In addition to the material and information required by law and by the board, the claimant may provide the board with any other information pertinent to the nature or the amount of the claim. The board shall receive and consider information provided by law enforcement agencies and prosecution authorities and, at its sole discretion, may receive and consider relevant information from any other source.

[ 1997, c. 378, §10 (AMD) .]

**3. Determination of award.** The board shall determine by a preponderance of the evidence whether a specified crime occurred, whether the personal injury or death was the result of that criminal conduct, the amount of eligible expenses and losses suffered by the claimant, whether to award compensation and the amount of the compensation. In determining the amount of compensation to be paid, the board shall consider the amount available to pay victim compensation claims, the history of claims paid by the board, the number and amount of currently pending claims and the nature and cost of expenses submitted by the claimant.

[ 1999, c. 360, §8 (AMD); 1999, c. 360, §9 (AFF) .]

**4. Unanimous decision.** The board shall determine action on a claim with a quorum participating on that claim, but any award of compensation requires the unanimous concurrence of all members present.

[ 1991, c. 806, §3 (NEW) .]

**5. Final decision.** The board's final decision must contain reasons for the determination.

[ 1991, c. 806, §3 (NEW) .]

#### SECTION HISTORY

1991, c. 806, §3 (NEW). 1997, c. 378, §10 (AMD). 1999, c. 360, §8 (AMD). 1999, c. 360, §9 (AFF).

### §3360-G. APPEAL

Only a claimant under this chapter may appeal a decision of the board. An appeal of the board's final decisions must be to the Superior Court as provided for other administrative actions under chapter 375, subchapter VII. Board decisions and the amount of awards must be upheld unless the court finds no rational basis for the decision or that the board abused its discretion. [1997, c. 378, §11 (AMD).]

#### SECTION HISTORY



1991, c. 806, §3 (NEW). 1997, c. 378, §11 (AMD).

### **§3360-H. VICTIMS' COMPENSATION FUND**

There is created a special fund, known as the "Victims' Compensation Fund," for the purpose of providing for the payment of claims arising under this chapter and for the payment of all necessary and proper expenses incurred by the board. The Attorney General shall administer the fund. [1991, c. 806, §3 (NEW).]

All administrative costs of the board must be paid out of money collected pursuant to section 3360-I and deposited in the Victims' Compensation Fund. The fund may receive private donations, federal funds and state funds designated by law that may be used for the payment of claims and for administrative costs. [1997, c. 378, §11 (AMD).]

#### **SECTION HISTORY**

1991, c. 806, §3 (NEW). 1997, c. 378, §11 (AMD).

### **§3360-I. FUNDING SOURCES**

As part of the sentence or fine imposed, the court shall impose an assessment of \$35 on any person convicted of murder, a Class A crime, a Class B crime or a Class C crime and \$20 on any person convicted of a Class D crime or a Class E crime, except that the court shall impose an assessment of \$1,000 on any person convicted of aggravated sex trafficking as described in Title 17-A, section 852, an assessment of \$500 on any person convicted of sex trafficking as described in Title 17-A, section 853, an assessment of \$500 on any person for the first conviction and \$1,000 for each subsequent conviction of engaging a prostitute as described in Title 17-A, section 853-B and an assessment of \$500 on any person for the first conviction and \$1,000 for each subsequent conviction of patronizing prostitution of a minor or patronizing prostitution of a mentally disabled person as described in Title 17-A, section 855. Notwithstanding any other law, the court may not waive the imposition of the assessment required by this section. For purposes of collection and collection procedures, this assessment is considered part of the fine. At the time of commitment, the court shall inform the Department of Corrections or the county sheriff of any unpaid balances on assessments owed by the offender to the Victims' Compensation Fund. All funds collected as a result of these assessments accrue to the Victims' Compensation Fund. [2013, c. 607, §1 (AMD).]

When compensation is awarded from the Victims' Compensation Fund, the amount of any restitution ordered and paid as part of a sentence imposed that, when added to the award from the fund, exceeds the victim's actual loss must be paid to the fund, in an amount not to exceed the amount of the award. Similarly, the amount of any insurance, 3rd-party payment or recovery in a successful civil action against a person responsible for the eligible expenses and losses that, when added to the award from the fund, exceeds the victim's actual loss must be paid to the fund, in an amount not to exceed the amount of the award. [1991, c. 806, §3 (NEW).]

The board may establish a reserve fund approved by the State Auditor and the Treasurer of State. At the end of every quarter, the Treasurer of State shall credit unreserved funds in excess of \$2,000,000 to the General Fund. [1991, c. 806, §3 (NEW).]

#### **SECTION HISTORY**

1991, c. 806, §3 (NEW). 1993, c. 570, §1 (AMD). 2011, c. 628, §1 (AMD). 2013, c. 368, Pt. EE, §1 (AMD). 2013, c. 368, Pt. EE, §2 (AFF). 2013, c. 424, Pt. H, §§1, 2 (AFF). 2013, c. 537, §4 (AMD). 2013, c. 607, §1 (AMD).

## §3360-J. USE OF FUNDS

**1. Administrative expenses.** Administrative expenses of the board may be paid from the Victims' Compensation Fund.

[ 1997, c. 378, §12 (AMD) .]

**2. Judicial administrative expenses.** Up to \$10,000 may be used the first year to defray the programming costs to integrate the Victims' Compensation Fund into the Judicial Department computer system.

[ 1991, c. 806, §3 (NEW) .]

### SECTION HISTORY

1991, c. 806, §3 (NEW). 1997, c. 378, §12 (AMD).

## §3360-K. EFFECTIVE DATES

**1. Penalty imposed.** The assessments required by section 3360-I apply to penalties imposed for criminal conduct alleged to have occurred on or after January 1, 1993.

[ 1991, c. 806, §3 (NEW) .]

**2. Compensation awarded.** Notwithstanding the effective date of this chapter, the board may not award compensation for any crime that occurred prior to January 1, 1993.

[ 1991, c. 806, §3 (NEW) .]

**3. Processing claims.** Notwithstanding the effective date of this chapter, the board is not obligated to process or pay claims before June 1, 1993.

[ 1991, c. 806, §3 (NEW) .]

### SECTION HISTORY

1991, c. 806, §3 (NEW).

## §3360-L. INFORMATION

The Attorney General shall develop a fact sheet for victims with information about the victim advocate and victim compensation programs and shall make copies available to all prosecutors' offices and law enforcement agencies who shall provide that fact sheet for distribution to all victims of crimes and their families. [1993, c. 675, Pt. A, §2 (NEW).]

### SECTION HISTORY

1993, c. 675, §A2 (NEW).

## **§3360-M. PAYMENT FOR FORENSIC EXAMINATIONS FOR ALLEGED VICTIMS OF GROSS SEXUAL ASSAULT**

**1. Payment.** The board shall pay the costs of forensic examiner training as well as the costs of forensic examinations for alleged victims of gross sexual assault from the Victims' Compensation Fund. The board shall track expenditures for forensic examinations separately from all other expenditures. Forensic examination payments are not subject to any other provision of this chapter.

[ 2007, c. 240, Pt. WW, §1 (AMD) . ]

**2. Forensic examination; forensic examiner training and education.** The board shall determine by rule what a forensic examination may include for purposes of payment. An examination must include at least all services directly related to the gathering of forensic evidence and related testing and treatment for pregnancy and sexually transmitted diseases. The board shall pay a licensed hospital or licensed health care practitioner the actual cost of the forensic examination up to a maximum of \$750.

The cost of sexual assault forensic examiner training and education provided by the sexual assault forensic examiner program must be paid from the Victims' Compensation Fund in an amount that may not exceed \$50,000 per year.

[ 2009, c. 79, §4 (AMD) . ]

**3. Process for payment.** A licensed hospital or licensed health care practitioner that performs forensic examinations for alleged victims of gross sexual assault shall submit a bill to the Victims' Compensation Board directly for payment of the forensic examinations. The hospital or health care practitioner that performs a forensic examination shall take steps necessary to ensure the confidentiality of the alleged victim's identity. The bill submitted by the hospital or health care practitioner may not identify the alleged victim by name but must be assigned a tracking number that corresponds to the forensic examination kit. The tracking number may not be the alleged victim's social security number. The hospital or health care practitioner that performs the examination may not bill the alleged victim or the alleged victim's insurer, nonprofit hospital or medical service organization or health maintenance organization for payment of the examination. The alleged victim is not required to report the alleged offense to a law enforcement agency.

[ 1999, c. 719, §1 (NEW); 1999, c. 719, §11 (AFF) . ]

**4. Other reimbursement.** The fact that forensic examinations are paid for separately through the Victims' Compensation Fund does not preclude alleged victims of gross sexual assault from seeking reimbursement for expenses other than those for the forensic examination. A victim seeking reimbursement from the Victims' Compensation Fund for expenses other than the forensic examination is subject to all other provisions of this chapter.

[ 1999, c. 719, §1 (NEW); 1999, c. 719, §11 (AFF) . ]

**5. Rules.** Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

[ 1999, c. 719, §1 (NEW); 1999, c. 719, §11 (AFF) . ]

### SECTION HISTORY

1999, c. 719, §1 (NEW). 1999, c. 719, §11 (AFF). 2007, c. 240, Pt. WW, §§1, 2 (AMD). 2009, c. 79, §4 (AMD).

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